



HF 795 – Workers' Compensation Choice of Doctor (LSB1613HV)
Analyst: Ron Robinson (Phone: 515-281-6256) (ron.robinson@legis.state.ia.us)
Fiscal Note Version – New

Description

House File 795 specifies the process for an injured employee, rather than the employer, to select a medical provider, under the State's workers' compensation laws. The injury must have taken place on or after January 1, 2010. The Bill allows the employer to choose care unless the employee has pre-designated a physician, as provided in the Bill, or unless care needs to be provided at the job site in response to a life-threatening emergency. The employer is allowed to ask the Workers' Compensation Commissioner to require an alternate care plan for the employee.

The employee is given the right to pre-designate a physician that is a primary care provider and has previously provided treatment to the employee, to provide treatment for a work-related injury, except in the case of an emergency. The employer is required to provide written notice to employees of this right upon hire, and periodically during employment, and upon receiving notice of an injury from an employee who has not yet pre-designated a physician of the employee's right to do so, in a manner prescribed by the Workers' Compensation Commissioner. An employer or an employer's insurer must not make suggestions or otherwise attempt to influence an injured employee's choice of a physician.

If the employer fails to provide notification, an injured employee has the right to choose any physician to provide treatment for the work-related injury and that treatment is considered authorized care. The employer is required to provide an injured employee (that has not pre-designated a physician) with a list of four physicians and the employee is to select one of the four to provide treatment. The list is to consist of physicians participating in the employer-funded group medical plan, if there is a plan. If a list is not established, the employee can select any physician. If the employee is treated for 30 days by a physician on the list, the employee is permitted to select any physician.

If the employee or employer is dissatisfied with the care chosen by the other party, the parties can agree to alternate care. If they do not agree, either party must communicate this to the Division of Workers' Compensation and the Division must schedule a conference to resolve the dispute. If the parties cannot agree to alternate care, the dissatisfied party may make an application for alternate care to the Commissioner. The Commissioner is required to issue a decision within 10 working days of receipt of an application.

When it is medically indicated that no significant improvement from an injury is anticipated, the employer is required to obtain a medical opinion regarding the extent of the employee's permanent disability. The employee has the right to obtain another medical opinion from a physician of the employee's choosing at the employer's expense. The employee is entitled to compensation and expenses for attending the examinations.

Background

The Iowa Department of Workforce Development receives approximately 20,000 first reports of injury annually. Approximately 3,600 of those have disputes filed with the Department. About 360 of those are for the sole purpose of disputing the employer's care plan.

Currently in Iowa, the employer controls the course of treatment for injured workers and may establish provider networks with fee schedules.

Literature Review

Numerous studies and articles concerning the selection of a medical provider in workers' compensation cases have been written. Several of these were examined. While most studies indicate that lower medical payments are associated with employer choice, the findings are not unchallenged. The findings may differ in part due to the differences across studies in the states, the years examined, and the measures used to study provider choice. Few studies have focused on outcomes or cost measures other than medical payments. Other outcomes include, physical recovery, duration of time out of work, worker satisfaction, and indemnity payments. Also other factors that impact the outcomes are not always adjusted for, such as employer (type and nature of the work) and employee characteristics (age and other health conditions). The final factor that needs to be accounted for is treatment control. Treatment control includes, fee schedules, utilization review, managed provider networks, and pharmacy benefit management programs.

A joint publication by the Workers Compensation Research Institute (WCRI) and the Public Policy Institute of California entitled, *"The Impact of Provider Choice on Workers' Compensation Costs and Outcomes,"* Victor, et al, WCRI (2005), indicated the following when comparing an employee choice of a prior provider compared to the employer selecting the provider, in both treatment control cases and cases without treatment control:

- Medical payments were 7.0-22.0% higher, although the results are not statistically significant for the 7.0% represented by treatment controls.
- Indemnity payments were not statistically different in the 1.0% to 9.0% range. The difference is statistically significant at 10.0%. The 1.0% change is with treatment controls.
- Substantial return-to-work outcomes were not statistically different with a decrease of 4.0% (non-control) and an increase of 3.0% (control). Significance is reached at 5.0%.
- Duration of injury ranged from 7.0% higher for treatment controls and 17.0% higher without treatment controls. Significance is reached at 5.0%.
- The worker had a much higher satisfaction with the care in both cases with the treatment control cases being slightly higher.

According to a presentation by the Committee on Health Care Initiatives (CHCI) at the Center for Labor Research and Studies (CLRS) 2008 meeting in Washington, DC, fee schedules are used to control costs in most states and the use of treatment guidelines in workers' compensation cases is growing. Limits on the access to direct care by a managed provider network contributes to costs. The states without workers' compensation fee schedules paid higher prices than those with group health plans. "Fee schedules, utilization review, managed provider networks, and pharmacy benefit management programs are all key to containing utilization." The presentation was based on data provided by WCRI and the National Council on Compensation Insurance, Inc. (NCCI).

Assumptions

- The Iowa Department of Workforce Development will need an additional deputy workers' compensation commissioner to address alternate care plans filed by employers.
- There is insufficient information to determine the fiscal impact of the Bill to the State General Fund for self-insured costs related to State employees without an actuarial study. The Department of Administrative Services has not budgeted for actuarial studies of proposed legislation.
- For FY 2010, the amounts that are estimated to be expended for workers compensation costs, without any change in legislation, include:
 - \$27.4 million – State of Iowa (excluding the Board of Regents).
 - \$6.4 million – Board of Regents
 - \$19.5 million – Iowa cities.
 - \$15.5 million – K-12 school districts.
- The current total volume of workers' compensation system costs in the State is \$711.8 million, including self-insured claims.
- The current workers' compensation expenses for each hour worked averages \$0.45 for State and local government and \$0.47 for private industry.
- Six months of FY 2010 will be impacted.
- The FY 2010 costs will increase by 12.0% compared to FY 2009 and the FY 2011 costs will increase by 12.0% compared to FY 2010, without any changes in medical provider selections.
- The medical portion of claims averages 59.0% and the indemnity portion averages 41.0%.
- The General Fund share is 45.8%, the non-General Fund share is 54.2%, for salary expenses.

Fiscal Impact

There is insufficient information to determine the total fiscal impact of the Bill without an actuarial study.

The Bill will increase expenses for the Iowa Department of Workforce Development by an estimated \$60,000 for FY 2010 and \$120,000 annually for FY 2011 and subsequent years for the addition of a deputy workers' compensation commissioner.

The Department of Administrative Services indicates that, while the Department and the Workers' Compensation Third-Party Administrator believe the legislation creates a substantial increase in costs and administrative burden for all employers, an actuarial study would be necessary to determine the actual cost impact of this change. The Department further indicates that such a study is not within the Department's budget. Therefore, the total fiscal impact is undetermined at this time.

Sources

Department of Administrative Services
Iowa Department of Workforce Development
Iowa Board of Regents
National Council on Compensation Insurance, Inc. (NCCI)
Iowa Division of Insurance
Bureau of Labor Statistics
Iowa Association of School Boards
Iowa League of Cities

/s/ Holly M. Lyons

April 20, 2009

The fiscal note for this bill was prepared pursuant to [Joint Rule 17](#) and the correctional and minority impact statements were prepared pursuant to [Section 2.56](#), [Code of Iowa](#). Data used in developing this fiscal note, including correctional and minority impact information, is available from the Fiscal Services Division of the Legislative Services Agency upon request.
